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Form of Regulatory Public Accountancy Bill

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**FORM OF REGULATORY PUBLIC
ACCOUNTANCY BILL**

*Approved by the
Committee on State Legislation
August 1956*

AMERICAN INSTITUTE OF ACCOUNTANTS
270 Madison Avenue
New York 16, New York

Introductory Comment

This bill is not presented as a model bill but as a guide to state societies planning legislation. The Institute's committee on state legislation believes it desirable that state laws conform in principle to this Form of Regulatory Public Accountancy Bill but feels that some of the details are subject to change to accord with local conditions. Examples of provisions which may be varied are: (1) number of board members and method of appointment, (2) compensation of board members, (3) educational and experience requirements, and (4) fees for examination and re-examination.

The Institute's committee on state legislation recommends that state societies engage legal counsel to ensure that the form bill conforms to existing statutes. Illustrations of provisions which require the advice of counsel are the requiring aid of a court in compelling attendance of a witness and the handling of board funds.

The committee does not recommend the re-opening of registration of public accountants in those states which have already closed it under regulatory legislation.

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1 *An Act to regulate the practice of public accounting in the*
2 *public interest; to create a state board of accountancy and to pre-*
3 *scribe its powers and duties; and to provide penalties for violations*
4 *of the provisions of this Act.*

7	Comment
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SECTION 2. BOARD OF PUBLIC ACCOUNTANCY. There is hereby created a Board of Public Accountancy in and for the State of _____, to be known as the _____ State Board of Public Accountancy. The Board shall consist of _____ members, appointed by the Governor. Members of the Board shall be citizens of the United States and residents of this State who hold certified public accountant certificates issued under the laws of this State, and who are in active practice as certified public accountants. The members of the Board first to be appointed shall hold office, _____ for one year, _____ for two years, and _____ for three years from the effective date of this Act, the term of each to be designated by the Governor. Their successors shall be appointed for terms of three years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office a member shall continue to serve until his successor shall have been appointed and shall have qualified. The Governor shall remove from the Board any member whose permit to practice has become void, or has been revoked or suspended, and may, after hearing, remove any member of the Board for neglect of duty or other just cause. No person who has served two successive complete terms of one, two or three years shall be eligible for reappointment until after the lapse of one year. Appointment to fill an unexpired term is not to be considered as a complete term.

34 The Board shall elect annually a president (or chairman), a
35 secretary, and a treasurer from its members. The Board may adopt,
36 and amend from time to time, regulations for the orderly conduct
37 of its affairs and for the administration of this Act. A majority of
38 the Board shall constitute a quorum for the transaction of business.
39 The Board shall have a seal which shall be judicially noticed. The
40 Board shall keep records of its proceedings, and in any proceed-
41 ing in court, civil or criminal, arising out of or founded upon any
42 provision of this Act, copies of said records certified as correct un-
43 der the seal of the Board shall be admissible in evidence as tending
44 to prove the content of said records. The Board shall have printed
45 and published for public distribution, in of each year, an
46 annual register which shall contain the names, arranged alphabeti-
47 cally by classifications, of all practitioners holding permits to prac-
48 tice under this Act; the names of the members of the Board; and
49 such other matters as may be deemed proper by the Board. Copies
50 of said registers shall be mailed to each permit holder. The Board
51 may employ such personnel and arrange for such assistance as it
52 may require for the performance of its duties.

53 Each member of the Board shall be paid \$ for each
54 day or portion thereof spent in the discharge of his official duties
55 and shall be reimbursed for his actual and necessary expenses in-
56 curred in the discharge of his official duties.

57 All fees and other monies received by the Board pursuant to the
58 provisions of this Act shall be kept in a separate fund and expend-
59 ed solely for the purposes of this Act. No part of this special fund
60 shall revert to the general funds of this State. The compensation
61 provided by this Act and all expenses incurred under this Act shall
62 be paid from this special fund. No compensation or expenses in-
63 curred under this Act shall be a charge against the general funds of
64 this State. The Board shall file an annual report of its activities with
65 the Governor of this State and such report shall include a state-
66 ment of all receipts and disbursements.

67 The Board may promulgate and amend rules of professional con-
68 duct appropriate to establish and maintain a high standard of in-
69 tegrity and dignity in the profession of public accountancy. At least
70 sixty days prior to the promulgation of any such rule or amend-
71 ment, the Board shall mail copies of the proposed rule or amend-
72 ment to each holder of a permit issued under Section 10 of this
73 Act with a notice advising him of the proposed effective date of

74 the rule or amendment and requesting that he submit his comments
75 thereon at least fifteen days prior to such effective date; such
76 comments shall be advisory only. Failure to mail such rule, amend-
77 ment or notice to all permit holders shall not affect the validity of
78 any such rule or amendment.

79 **Comment**

80 The number of members of the State Board should be adapted to
81 local conditions. In some states, a three-man Board may be adequate.
82 In others a five-man or seven-man Board may be required.

83 The provision for compensation of the Board should be varied to
84 suit preferences and the needs of a particular state.

85 In fixing the month for publication of the annual register, considera-
86 tion should be given to the date set in Section 10 for the expiration and
87 renewal of annual permits to practice.

88 The fourth paragraph of this section should be checked to conform
89 with state laws relating to the handling of public funds. It is important
90 to provide that the funds shall not revert to the general funds of the
91 state.

92 **SECTION 3. CERTIFIED PUBLIC ACCOUNTANTS.** The
93 certificate of "certified public accountant" shall be granted by the
94 Board to any person (a) who is a citizen of the United States or
95 has duly declared his intention of becoming such citizen, and (b)
96 who is a resident of this State or has a place of business therein or,
97 as an employee, is regularly employed therein, and (c) who has at-
98 tained the age of twenty-one years, and (d) who is of good moral
99 character, and (e) who meets the requirements of education and
100 experience as hereinafter provided:

101 (1) During the three-year period immediately following the ef-
102 fective date of this Act the educational requirement shall
103 be (a) satisfactory completion of two years of study at one
104 or more colleges or universities, recognized by the Board,
105 or (b) graduation from a junior college, recognized by the
106 Board, or what the Board determines to be substantially
107 the equivalent of (a) or (b) above, and the experience
108 requirements shall be four years of public accounting ex-
109 perience, satisfactory to the Board, in any state in practice,
110 as a certified public accountant or as a public accountant,
111 or, in any state in employment, as a staff accountant by

112 anyone practicing public accounting, or any combination
113 of either of such types of experience; or such education and
114 experience requirements may be those set out in (3) or
115 (4) below;

116 (2) During the second three-year period following the effective
117 date of this Act, the educational requirement shall be that
118 specified in (1) above and, in addition, satisfactory comple-
119 tion of what the Board determines to be substantially the
120 the equivalent of an accounting major, including related
121 courses in other areas of business administration; and the
122 experience requirement shall be that specified in (1) above;
123 or such education and experience requirements may be
124 those set out in (3) or (4) below;

125 (3) After the expiration of six years from the effective date of
126 this Act, the educational requirement shall be satisfactory
127 completion of four years of study at one or more colleges
128 or universities, recognized by the Board, with a major in ac-
129 counting, or what the Board determines to be substantially
130 the equivalent of the foregoing; or with a nonaccounting
131 major, supplemented by what the Board determines to be
132 substantially the equivalent of an accounting major, includ-
133 ing related courses in other areas of business administration;
134 and the experience requirement shall be two years of the
135 experience described in (1) above;

136 (4) At any time after the effective date of this Act the expe-
137 rience requirement shall be only one year of the experience
138 described in (1) above for any candidate holding a Mas-
139 ter's Degree in Accounting or Business Administration
140 from a college or university recognized by the Board, if he
141 has satisfactorily completed such number of semester hours
142 in accounting, business administration and economics and
143 such related subjects as the Board shall determine to be
144 appropriate;

145 and (f) who shall have passed a written examination in theory of
146 accounts, in accounting practice, in auditing, in commercial law as
147 affecting public accounting and in such other related subjects as the
148 Board shall determine to be appropriate.

149 None of the educational requirements specified in (1), (2) or
150 (3) above shall apply to a candidate who is registered as a public
151 accountant under Section 7 hereof or who, on the effective date of
152 this Act, was employed as a staff accountant in this State by any-
153 one practicing public accounting; but the experience requirement
154 for such candidate who does not meet such educational require-
155 ments shall be four years of the experience described in (1) above.

156 The Board may, in its discretion, waive the educational require-
157 ment for any candidate if it is satisfied from the result of a special
158 written examination given the candidate by the Board to test his
159 educational qualifications that he is as well equipped, education-
160 ally, as if he met the applicable educational requirement specified
161 in (1), (2) or (3) above. The Board may provide by regulation
162 for the general scope of such examinations and may obtain such
163 advice and assistance as it deems appropriate to assist it in prepar-
164 ing and grading such special examinations.

165 The examinations described in (f) above and the special exami-
166 nations referred to in the preceding paragraph shall be held by the
167 Board and shall take place as often as the Board shall determine to
168 be desirable, but the examinations described in (f) above shall be
169 held not less frequently than once each year. The Board may make
170 such use of all or any part of the Uniform Certified Public Account-
171 ants' Examination and/or Advisory Grading Service as it deems
172 appropriate to assist it in performing its duties hereunder.

173 A candidate who has met the educational requirements, or with
174 respect to whom they either do not apply or have been waived, shall
175 be eligible to take the examination without waiting until he meets
176 the experience requirements, provided he also meets the require-
177 ments of (a), (b) and (d) above.

178 A candidate for the certificate of certified public accountant who
179 has successfully completed the examination under (f) above shall
180 have no status as a certified public accountant, unless and until he
181 has the requisite experience and has received his certificate as a
182 certified public accountant.

183 The Board may by regulation prescribe the terms and conditions
184 under which a candidate who passes the examination in one or
185 more of the subjects indicated in (f) above may be re-examined in
186 only the remaining subjects, with credit for the subjects previously
187 passed. It may also provide by regulation for a reasonable waiting
188 period for a candidate's re-examination in a subject he has failed.

189 Subject to the foregoing and such other regulations as the Board
190 may adopt governing re-examinations, a candidate shall be en-
191 titled to any number of re-examinations under (f) above.

192 In general, the applicable educational and experience require-
193 ments under subsections (1), (2) or (3) of (e) above shall be
194 those in effect on the date of the examination by which the candi-
195 date successfully completes his examination under (f) above; but
196 the Board may provide by regulations for exceptions to the general
197 rule in order to prevent what it determines to be undue hardship to
198 candidates resulting from changes in the educational and experi-
199 ence requirements as provided in subsections (1), (2) and (3).

200 The Board shall charge each candidate a fee, to be determined
201 by the Board, not in excess of \$ for the initial examination
202 provided for in (f) above and not in excess of \$ for any spe-
203 cial examination for a waiver of the educational requirements.

204 Fees for re-examinations under (f) above shall also be charged
205 by the Board in amounts determined by it, but not in excess of
206 \$ for each subject in which the candidate is re-examined.

207 The applicable fee shall be paid by the candidate at the time he
208 applies for examination or re-examination.

209 Any person who has received from the Board a certificate as a
210 certified public accountant and who holds a permit issued under
211 Section 10 of this Act, which is in full force and effect, shall be
212 styled and known as a "certified public accountant" and may also
213 use the abbreviation "C.P.A." The Board shall maintain a list of
214 certified public accountants. Any certified public accountant may
215 also be known as a "public accountant."

216 Persons who, on the effective date of this Act, held certified pub-
217 lic accountant certificates theretofore issued under the laws of this
218 state shall not be required to obtain additional certificates under
219 this Act, but shall otherwise be subject to all provisions of this Act;
220 and such certificates theretofore issued shall, for all purposes, be
221 considered certificates issued under this Act and subject to the
222 provisions hereof.

223 The Board may, in its discretion, waive the examination under
224 (f) above, and may issue a certificate as a "certified public account-
225 ant" to any person possessing the qualifications specified in subsec-
226 tions (a), (b), (c) and (d) hereof and what the Board determines
227 to be substantially the equivalent of the applicable qualifications un-
228 der subsection (e) hereof, who is the holder of a certificate as a cer-

229 tified public accountant, then in full force and effect, issued under
230 the laws of any state, or is the holder of a certificate, license or de-
231 gree in a foreign country constituting a recognized qualification for
232 the practice of public accounting in such country, comparable to
233 that of a certified public accountant of this state, which is then in
234 full force and effect.

235

Comment

236 The proposed educational requirements in this section are patterned
237 after the recommendations for the educational requirements during
238 the transitional period which appear on page 138 of the report of the
239 Commission on Standards of Education and Experience for Certified
240 Public Accountants. The proposal involves moving in successive steps
241 toward higher educational requirements, the steps being spaced at
242 three-year intervals until after the expiration of six years. Experience
243 requirements decrease as the educational requirements increase.

244 One member of the Committee on State Legislation dissented from
245 the spacing of three-year intervals believing that the spacing should be
246 in five-year intervals.

247 The educational and experience requirements should be drafted to
248 suit the conditions existing in each state. In this connection, it should
249 be noted that the most common educational requirement for a C.P.A.
250 certificate today is that of a high school graduation or its equivalent.
251 The first step above this proposed by the Commission in the so-called
252 transitional period is two years of college without specification of the
253 curriculum. The proposed Bill moves directly into the two years of
254 college requirement without any transitional period. Perhaps in some
255 states it will be necessary to defer this increased requirement for three
256 or more years.

257 Care should be taken that the Bill does not set up educational re-
258 quirements which cannot be met through courses in local acceptable
259 colleges or universities.

260 Although the Bill gives the Board discretion in determining educa-
261 tional requirements within specified limits, enacting states may wish to
262 enable the Board to determine educational requirements by regulation.
263 If so, the matter of delegation of authority should be carefully checked
264 locally.

265 The Bill proposes that candidates possessing the educational require-
266 ments be permitted to take the examination without waiting until they
267 meet the experience requirements. One member of the Committee on
268 State Legislation dissented from this proposal.

269 The Bill contains blank spaces for fees to be charged for examina-
270 tions. It is suggested that current information on appropriate amounts
271 of such fees be obtained from the Institute's staff.

272 SECTION 4. REGISTRATION OF FOREIGN ACCOUNT-
273 ANTS. The Board may, in its discretion, permit the registration
274 of any person of good moral character who is the holder of a
275 certificate, license, or degree in a foreign country constituting a
276 recognized qualification for the practice of public accounting in
277 such country. A person so registered shall use only the title under
278 which he is generally known in his own country, followed by the
279 name of the country from which he received his certificate, license
280 or degree.

281

Comment

282 It is proposed by this section to give effect to a recommendation of
283 the Executive Committee of the American Institute of Accountants
284 made many years ago that a qualified professional accountant of a
285 foreign country in possession of a certificate, license or degree in his
286 country constituting a recognized qualification for the practice of
287 public accountancy and which is issued under acceptable professional
288 standards be permitted to practice in this country subject to such re-
289 quirements as to registration or payment of fees as may be required
290 and be permitted to use the title under which he is registered in his
291 own country provided the country of its origin is indicated.

292 SECTION 5. PARTNERSHIPS COMPOSED OF CERTI-
293 FIED PUBLIC ACCOUNTANTS—REGISTRATION THERE-
294 OF. A partnership engaged in this State in the practice of public
295 accounting may register with the Board as a partnership of certi-
296 fied public accountants provided it meets the following require-
297 ments:

- 298 (a) At least one general partner thereof must be a certified
299 public accountant of this State in good standing.
300 (b) Each partner thereof personally engaged within this State
301 in the practice of public accounting as a member thereof
302 must be a certified public accountant of this State in good
303 standing.
304 (c) Each partner thereof must be a certified public accountant
305 of some state in good standing.
306 (d) Each resident manager in charge of an office of the firm in
307 this State must be a certified public accountant of this State
308 in good standing.
309 Application for such registration must be made upon the affi-

310 davit of a general partner of such partnership who is a certified
311 public accountant of this State in good standing. The Board shall in
312 each case determine whether the applicant is eligible for registra-
313 tion. A partnership which is so registered and which holds a per-
314 mit issued under Section 10, of this Act may use the words "certi-
315 fied public accountants" or the abbreviation "C.P.A.'s" in connec-
316 tion with its partnership name. Notification shall be given the Board,
317 within one month, after the admission to or withdrawal of a partner
318 from any partnership so registered.

319 SECTION 6. TEMPORARY CERTIFICATE AS CERTI-
320 FIED PUBLIC ACCOUNTANT. In the event an applicant for
321 a certificate as a certified public accountant meets all of the re-
322 quirements for such a certificate (other than the requirements of
323 subsection (b) of Section 3 hereof that he be a resident of this State
324 or have a place of business herein or, as an employee, be regularly
325 employed herein) the Board may, in its discretion, issue to him a
326 temporary certificate as a certified public accountant which shall be
327 effective only until the Board shall notify him that his application
328 has been either granted or rejected. In no event shall such tem-
329 porary certificate be in effect for more than months after the
330 date of its issuance. No fee shall be charged for such permit.

331

Comment

332 The purpose of this provision is to allow a non-resident applicant
333 who is otherwise qualified for a local certificate to practice for a limited
334 period of time while establishing a local office or residence.

335 SECTION 7. PUBLIC ACCOUNTANTS—REGISTRATION
336 THEREOF. Any person (a) who is a resident of this State, or has
337 a place of business therein and (b) who has attained the age of
338 twenty-one years, and (c) who is of good moral character and
339 (d) who meets the requirements of subdivision (1) or (2) of
340 this section may register with the Board as a public accountant on
341 or before the day of, 19

342 (1) Persons who held themselves out to the public as public
343 accountants and who were engaged as principals (as dis-
344 tinguished from employees) within this State at the effec-

382 (b) Each partner thereof personally engaged within this State in
383 the practice of public accounting as a member thereof must
384 be a certified public accountant or a public accountant of
385 this State in good standing.

386 (c) Each resident manager in charge of an office of a firm in
387 this State must be a certified public accountant or a public
388 accountant of this State in good standing.

389 Application for such registration must be made upon the affi-
390 davit of a general partner of such partnership who holds a permit
391 to practice in this State as a certified public accountant or as a
392 public accountant. The Board shall in each case determine whether
393 the applicant is eligible for registration. A partnership which is so
394 registered and which holds a partnership permit issued under Sec-
395 tion 10 of this Act may use the words "public accountants" in
396 connection with its partnership name. Notification shall be given
397 the Board, within one month, after the admission to or withdrawal
398 of a partner from any partnership so registered.

399 SECTION 9. REGISTRATION OF OFFICES. Each office
400 established or maintained in this State for the practice of public
401 accounting in this State by a certified public accountant, or part-
402 nership of certified public accountants, or by a public accountant
403 or a partnership of public accountants, or by one registered under
404 Section 4 shall be registered annually under this Act with the Board,
405 but no fee shall be charged for such registration. Each such office
406 shall be under the direct supervision of a resident manager who
407 may be either a principal or a staff employee holding a permit un-
408 der Section 10 of this Act, which is in full force and effect; provided
409 that the title or designation "certified public accountant" or the
410 abbreviation "CPA" shall not be used in connection with such
411 office unless such resident manager is the holder of a certificate as
412 a certified public accountant under Section 3 of this Act and a
413 permit issued under Section 10 of this Act, both of which are in
414 full force and effect. Such resident manager may serve in such
415 capacity at one office only. The Board shall by regulation prescribe
416 the procedure to be followed in effecting such registrations.

417 SECTION 10. ANNUAL PERMITS TO PRACTICE. Per-
418 mits to engage in the practice of public accounting in this State

419 shall be issued by the Board to holders of the certificate of certified
420 public accountant issued under Section 3 of this Act and to per-
421 sons and partnerships registered under Sections 4, 5, 7 and 8 of
422 this Act; provided all offices of such certificate holder or registrant
423 are maintained and registered as required under Section 9 of this
424 Act. There shall be an annual permit fee in an amount to be de-
425 termined, from time to time, by the Board, not to exceed
426 \$. All permits shall expire on the last day of of
427 each year and may be renewed annually for a period of one year
428 by certificate holders and registrants in good standing upon pay-
429 ment of an annual renewal fee of not to exceed \$. Fail-
430 ure of a certificate holder or registrant to apply for such annual
431 permit to practice within (a) three years from the expiration date
432 of the permit to practice last obtained or renewed, or (b) three
433 years from the date upon which the certificate holder or registrant
434 was granted his certificate or registration, if no permit was ever
435 issued to him, shall deprive him of the right to renewal, unless the
436 Board, in its discretion, determines such failure to have been due
437 to excusable neglect. In such case the renewal fee or the fee for
438 the issuance of the original permit, as the case may be, shall be
439 such amount as the Board shall, from time to time determine, but
440 not in excess of \$.

441 **Comment**

442 One member of the committee dissents from this section in its
443 entirety on the ground that no one practicing a profession should be
444 required to obtain an annual permit to do so.

445 **SECTION 11. REVOCATION OR SUSPENSION OF CER-**
446 **TIFICATE, OR REGISTRATION, OR PERMIT.** After notice
447 and hearing as provided in Section 13 of this Act, the Board may
448 revoke, or may suspend for a period not to exceed years,
449 any certificate issued under Section 3 of this Act, or any registra-
450 tion granted under Section 7 of this Act, or may revoke, suspend
451 or refuse to renew any permit issued under Section 10 of this Act,
452 or may censure the holder of any such permit, for any one or any
453 combination of the following causes:

454 (a) Fraud or deceit in obtaining a certificate as certified public
455 accountant, or in obtaining registration under this Act, or

- 456 in obtaining a permit to practice public accounting under
457 this Act.
- 458 (b) Dishonesty, fraud or gross negligence in the practice of
459 public accounting.
- 460 (c) Violation of any of the provisions of Section 15 of this Act.
- 461 (d) Violation of a rule of professional conduct promulgated by
462 the Board under the authority granted by this Act.
- 463 (e) Conviction of a felony under the laws of any state or of the
464 United States.
- 465 (f) Conviction of any crime, an element of which is dishonesty
466 or fraud, under the laws of any state or of the United States.
- 467 (g) Cancellation, revocation, suspension, or refusal to renew
468 authority to practice as a certified public accountant or a
469 public accountant in any other state, for any cause other
470 than failure to pay an annual registration fee in such other
471 state.
- 472 (h) Suspension or revocation of the right to practice before any
473 state or federal agency.
- 474 (i) Failure to become a citizen of the United States within six
475 years by any person not a citizen of the United States when
476 he or she received a certificate as certified public accountant
477 under this Act.
- 478 (j) Failure of a certificate holder or registrant to obtain an an-
479 nual permit under Section 10, within either (a) three years
480 from the expiration date of the permit to practice last ob-
481 tained or renewed by said certificate holder or registrant, or
482 (b) three years from the date upon which the certificate
483 holder or registrant was granted his certificate or registra-
484 tion, if no permit was ever issued to him, unless under
485 Section 10 such failure shall have been excused by the
486 Board pursuant to the provisions of Section 10.
- 487 (k) Conduct discreditable to the public accounting profession.

488 SECTION 12. REVOCATION OR SUSPENSION OF PART-
489 NERSHIP REGISTRATION OR PERMIT. After notice and
490 hearing as provided in Section 13 of this Act, the Board shall re-
491 voke the registration and permit to practice of a partnership if at
492 any time it does not have all the qualifications prescribed by the
493 section of this Act under which it qualified for registration.

494 After notice and hearing as provided in Section 13 of this Act
495 the Board may revoke or suspend the registration of a partnership
496 or may revoke, suspend or refuse to renew its permit under Section
497 10 to practice or may censure the holder of any such permit for
498 any of the causes enumerated in Section 11, or for any of the fol-
499 lowing additional causes:

- 500 (a) The revocation or suspension of the certificate or registra-
501 tion or the revocation or suspension or refusal to renew the
502 permit to practice of any partner.
503 (b) The cancellation, revocation, suspension or refusal to re-
504 new the authority of the partnership or any partner thereof
505 to practice public accounting in any other state for any
506 cause other than failure to pay an annual registration fee
507 in such other state.

508 SECTION 13. HEARINGS BEFORE BOARD—NOTICE—
509 PROCEDURE—REVIEW.

510 (a) Commencement of Proceeding. The Board may initiate
511 proceedings under this Act either on its own motion or on
512 the complaint of any person.

513 (b) Notice-Service and Contents. A written notice stating the
514 nature of the charge or charges against the accused and the
515 time and place of the hearing before the Board on such
516 charges shall be served on the accused not less than 30
517 days prior to the date of said hearing either personally or
518 by mailing a copy thereof registered mail to the address of
519 the accused last known to the Board.

520 (c) Failure to Appear. If, after having been served with the
521 notice of hearing as provided for herein, the accused fails
522 to appear at said hearing and defend, the Board may pro-
523 ceed to hear evidence against him and may enter such or-
524 der as shall be justified by the evidence, which order shall

- 525 be final unless he petitions for a review thereof as provided
526 herein: Provided, however, that within 30 days from the
527 date of any order, upon a showing of good cause for fail-
528 ing to appear and defend, the Board may reopen said pro-
529 ceedings and may permit the accused to submit evidence in
530 his behalf.
- 531 (d) Counsel—Witnesses—Cross-examination. At any hearing
532 the accused may appear in person and by counsel, produce
533 evidence and witnesses on his own behalf, cross-examine
534 witnesses, and examine such evidence as may be produced
535 against him. The accused shall be entitled, on application to
536 the Board, to the issuance of subpoenas to compel the at-
537 tendance of witnesses on his behalf.
- 538 (e) Subpoenas—Oaths. The Board, or any member thereof,
539 may issue subpoenas to compel the attendance of witnesses
540 and the production of documents, and may administer
541 oaths, take testimony, hear proofs and receive exhibits in
542 evidence in connection with or upon hearing under this Act.
543 In case of disobedience to a subpoena the Board may in-
544 voke the aid of any court of this State in requiring the at-
545 tendance and testimony of witnesses and the production of
546 documentary evidence.
- 547 (f) Evidence. The Board shall not be bound by technical rules
548 of evidence.
- 549 (g) Record. A stenographic record of the hearing shall be kept
550 and a transcript thereof filed with the Board.
- 551 (h) Attorney for the Board. At all hearings the Attorney Gen-
552 eral of this State, or one of his assistants designated by him,
553 or such other legal counsel as may be employed, shall ap-
554 pear and represent the Board.
- 555 (i) Decision. The decision of the Board shall be by majority
556 vote thereof.
- 557 (j) Review by Court. Anyone adversely affected by any
558 order of the Board may obtain a review thereof by filing a
559 written petition for review with the court
560 within 30 days after the entry of said order. The petition

561 shall state the grounds upon which the review is asked and
562 shall pray that the order of the Board be modified or set
563 aside in whole or in part. A copy of such petition shall be
564 forthwith served upon any member of the Board and there-
565 upon the Board shall certify and file in the Court a tran-
566 script of the record upon which the order complained of
567 was entered. The case shall then be tried *de novo* on the
568 record made before the Board, without the introduction of
569 new or additional evidence but the parties shall be permit-
570 ted to file briefs as in an ordinary case at law. The Court
571 may affirm, modify or set aside the Board's order in whole
572 or in part, or may remand the case to the Board for further
573 evidence, and may, in its discretion, stay the effect of the
574 Board's order pending its determination of the case. The
575 Court's decision shall have the force and effect of a decree
576 in equity.

577 SECTION 14. REINSTATEMENT. Upon application in
578 writing and after hearing pursuant to notice, the Board may issue a
579 new certificate to a certified public accountant whose certificate
580 shall have been revoked, or may permit the re-registration of any-
581 one whose registration has been revoked, or may reissue or
582 modify the suspension of any permit to practice public accounting
583 which has been revoked or suspended.

584 SECTION 15. ACTS DECLARED UNLAWFUL.

585 (a) No person shall assume or use the title or designation "cer-
586 tified public accountant" or the abbreviation "C.P.A." or
587 any other title, designation, words, letters, abbreviation,
588 sign, card, or device tending to indicate that such person is
589 a certified public accountant, unless such person has re-
590 ceived a certificate as a certified public accountant under
591 Section 3 of this Act, holds a permit issued under Section
592 10 of this Act which is not revoked or suspended, (herein-
593 after referred to as a "live permit") and all of such person's
594 offices in this State for the practice of public accounting are
595 maintained and registered as required under Section 9; pro-
596 vided, however, that a foreign accountant who has regis-
597 tered under the provisions of Section 4 of this Act, and who

- 598 holds a live permit issued under Section 10 of this Act,
599 may use the title under which he is generally known in his
600 country, followed by the name of the country from which
601 he received his certificate, license or degree.
- 602 (b) No partnership shall assume or use the title or designation
603 "certified public accountant" or the abbreviation "C.P.A."
604 or any other title, designation, words, letters, abbreviation,
605 sign, card or device tending to indicate that such partner-
606 ship is composed of certified public accountants unless such
607 partnership is registered as a partnership of certified public
608 accountants under Section 5 of this Act, holds a live permit
609 issued under Section 10 of this Act and all of such partner-
610 ship's offices in this State for the practice of public account-
611 ing are maintained and registered as required under Sec-
612 tion 9.
- 613 (c) No person shall assume or use the title or designation "pub-
614 lic accountant" or any other title, designation, words, let-
615 ters, abbreviation, sign, card, or device tending to indicate
616 that such person is a public accountant, unless such person
617 is registered as a public accountant under Section 7 of this
618 Act, holds a live permit issued under Section 10 of this Act
619 and all of such person's offices in this State for the practice
620 of public accounting are maintained and registered as re-
621 quired under Section 9, or unless such person has received
622 a certificate as a certified public accountant under Section 3
623 of this Act, holds a live permit issued under Section 10 of
624 this Act and all of such person's offices in this State for the
625 practice of public accounting are maintained and registered
626 as required under Section 9.
- 627 (d) No partnership shall assume or use the title or designation
628 "public accountant" or any other title, designation, words,
629 letters, abbreviation, sign, card, or device tending to indi-
630 cate that such partnership is composed of public account-
631 ants, unless such partnership is registered as a partnership
632 of public accountants under Section 8 of this Act or as a
633 partnership of certified public accountants under Section 5
634 of this Act and holds a live permit issued under Section 10
635 of this Act and all of such partnership's offices in this State

- 636 for the practice of public accounting are maintained and
637 registered as required under Section 9.
- 638 (e) No person or partnership shall assume or use the title or
639 designation "certified accountant," "chartered accountant,"
640 "enrolled accountant," "licensed accountant," "registered
641 accountant," or any other title or designation likely to be
642 confused with "certified public accountant" or "public ac-
643 countant," or any of the abbreviations "CA," "PA," "EA,"
644 "RA," or "LA," or similar abbreviations likely to be con-
645 fused with "CPA"; provided, however, that anyone who
646 holds a live permit issued under Section 10 of this Act and
647 all of whose offices in this State for the practice of public
648 accounting are maintained and registered as required under
649 Section 9 may hold himself out to the public as an "account-
650 ant" or "auditor"; and provided further that a foreign ac-
651 countant registered under Section 4, who holds a live per-
652 mit issued under Section 10 and all of whose offices in this
653 State for the practice of public accounting are maintained
654 and registered as required under Section 9, may use the
655 title under which he is generally known in his country, fol-
656 lowed by the name of the country from which he received
657 his certificate, license or degree.
- 658 (f) No corporation shall assume or use the title or designation
659 "certified public accountant," or "public accountant"; nor
660 shall any corporation assume or use the title or designation
661 "certified accountant," "chartered accountant," "enrolled
662 accountant," "licensed accountant," "registered account-
663 ant" or any other title or designation likely to be confused
664 with "certified public accountant" or "public accountant,"
665 or any of the abbreviations "CPA," "PA," "CA," "EA,"
666 "RA," or "LA" or similar abbreviations likely to be con-
667 fused with "CPA."
- 668 (g) No person shall sign or affix his name or any trade or as-
669 sumed name used by him in his profession or business, with
670 any wording indicating that he is an accountant or auditor,
671 or with any wording indicating that he has expert knowl-
672 edge in accounting or auditing, to any accounting or finan-
673 cial statement, or to any opinion on, report on or certificate

674 to any accounting or financial statement, unless he holds a
675 live permit issued under Section 10 of this Act, and all of
676 his offices in this State for the practice of public accounting
677 are maintained and registered under Section 9; provided,
678 however, that the provisions of this subsection shall not
679 prohibit any officer, employee, partner or principal of any
680 organization from affixing his signature to any statement or
681 report in reference to the financial affairs of said organiza-
682 tion with any wording designating the position, title or of-
683 fice which he holds in said organization, nor shall the pro-
684 visions of this subsection prohibit any act of a public official
685 or public employee in the performance of his duties as such.

686 (h) No person shall sign or affix a partnership name, with any
687 wording indicating that it is a partnership composed of ac-
688 countants or auditors or persons having expert knowledge in
689 accounting or auditing, to any accounting or financial state-
690 ment, or to any report on or certificate to any accounting or
691 financial statement, unless the partnership holds a live per-
692 mit issued under Section 10 of this Act and all of its offices
693 in this State for the practice of public accounting are main-
694 tained and registered as required under Section 9.

695 (i) No person shall sign or affix a corporate name with any
696 wording indicating that it is a corporation performing serv-
697 ices as accountants or auditors or composed of accountants
698 or auditors or persons having expert knowledge in account-
699 ing or auditing, to any accounting or financial statement, or
700 to any report on or certificate to any accounting or financial
701 statement.

702 (j) No person or partnership not holding a live permit issued
703 under Section 10 of this Act, and no corporation, shall hold
704 himself or itself out to the public as an "accountant" or
705 "auditor" by use of either or both of such words on any
706 sign, card, letterhead, or in any advertisement or directory,
707 without indicating thereon or therein that such person, part-
708 nership or corporation does not hold such a permit; pro-
709 vided that this subsection shall not prohibit any officer,
710 employee, partner or principal of any organization from
711 describing himself by the position, title or office he holds in

712 such organization; nor shall this subsection prohibit any
713 act of public official or public employee in the performance
714 of his duties as such.

715 (k) No person shall assume or use the title or designation "certi-
716 fied public accountant" or "public accountant" in conjunc-
717 tion with names indicating or implying that there is a part-
718 nership or in conjunction with the designation "and Com-
719 pany," or "and Co." or a similar designation if, in any such
720 case, there is in fact no bona fide partnership registered
721 under Section 5 or 8 of this Act; provided that a sole prop-
722 rietor or partnership lawfully using such title or designation
723 in conjunction with such names or designation on the ef-
724 fective date of this Act, may continue to do so if he or it
725 otherwise complies with the provisions of this Act.

726 SECTION 16. EXCEPTIONS—ACTS NOT PROHIBITED.

727 Nothing contained in this Act shall prohibit any person not a cer-
728 tified public accountant or public accountant from serving as an
729 employee of, or an assistant to, a certified public accountant or
730 public accountant or partnership composed of certified public ac-
731 countants or public accountants holding a permit to practice issued
732 under Section 10 of this Act or a foreign accountant registered
733 under Section 4 of this Act; provided that such employee or assist-
734 ant shall not issue any accounting or financial statement over his
735 name.

736 Nothing contained in this Act shall prohibit a certified public ac-
737 countant or a registered public accountant of another state, or any
738 accountant who holds a certificate, degree or license in a foreign
739 country, constituting a recognized qualification for the practice of
740 public accounting in such country, from temporarily practicing in
741 this State on professional business incident to his regular practice
742 outside this State; provided, that such temporary practice is con-
743 ducted in conformity with the regulations and rules of professional
744 conduct promulgated by the Board.

745 SECTION 17. INJUNCTION AGAINST UNLAWFUL ACT.

746 Whenever in the judgment of the Board any person has engaged,
747 or is about to engage, in any acts or practices which constitute, or

748 will constitute, a violation of Section 15 of this Act, the Board may
749 make application to the appropriate court for an order enjoining
750 such acts or practices, and upon a showing by the Board that such
751 person has engaged, or is about to engage, in any such acts or prac-
752 tices, an injunction, restraining order, or such other order as may be
753 appropriate shall be granted by such court without bond.

754 SECTION 18. MISDEMEANORS—PENALTY. Any person
755 who violates any provision of Section 15 of this Act, shall be guilty
756 of a misdemeanor, and upon conviction thereof, shall be subject to
757 a fine of not more than five hundred dollars, or to imprisonment for
758 not more than one year, or to both such fine and imprisonment.
759 Whenever the Board has reason to believe that any person is liable
760 to punishment under this section it may certify the facts to the At-
761 torney General of this State (or other appropriate enforcement
762 officer), who may, in his discretion, cause appropriate proceedings
763 to be brought.

764 SECTION 19. SINGLE ACT EVIDENCE OF PRACTICE.
765 The display or uttering by a person of a card, sign, advertisement or
766 other printed, engraved or written instrument or device, bearing a
767 person's name in conjunction with the words "certified public ac-
768 countant" or any abbreviation thereof, or "public accountant" or
769 any abbreviation thereof shall be *prima facie* evidence in any action
770 brought under Section 17 or Section 18 of this Act that the person
771 whose name is so displayed caused or procured the display or utter-
772 ing of such card, sign, advertisement or other printed, engraved or
773 written instrument or device, and that such person is holding him-
774 self out to be a certified public accountant or a public accountant
775 holding a permit to practice under Section 10 of this Act. In any
776 such action evidence of the commission of a single act prohibited by
777 this Act shall be sufficient to justify an injunction or a conviction
778 without evidence of a general course of conduct.

779 SECTION 20. OWNERSHIP OF ACCOUNTANTS' WORK-
780 ING PAPERS. All statements, records, schedules, working pa-
781 pers, and memoranda made by a certified public accountant or

782 public accountant incident to or in the course of professional serv-
783 ice to clients by such accountant, except reports submitted by a
784 certified public accountant or public accountant to a client, shall be
785 and remain the property of such accountant, in the absence of an
786 express agreement between such accountant and the client to the
787 contrary. No such statement, record, schedule, working paper or
788 memorandum shall be sold, transferred or bequeathed, without the
789 consent of the client or his personal representative or assignee, to
790 anyone other than one or more surviving partners or new partners
791 of such accountant.

792 **Comment**

793 State Legislation Research Study No. 2 prepared by the Committee
794 on State Legislation in 1955 recommended that accountancy statutes
795 should provide for the accountant's ownership of his working papers.
796 The Committee also recommended that in considering new legislation,
797 attention be given to the accountant's right to transfer ownership of
798 working papers (with the client's consent).

799 **SECTION 21. DEFINITIONS.**

- 800 (1) Board. The term "Board" when used in this Act means the
801 "Board of Public Accountancy" created by Section 2 of
802 this Act.
803 (2) Masculine terms when used herein shall also include the
804 feminine.
805 (3) State. The term "State" when used in this Act includes any
806 state, territory or insular possession of the United States, or
807 the District of Columbia.

808 **SECTION 22. CONSTRUCTION.** If any provision of this
809 Act or the application thereof to anyone or to any circumstances is
810 held invalid, the remainder of the Act and the application of such
811 provision to others or other circumstances shall not be affected
812 thereby.

813 **SECTION 23. REPEAL PROVISIONS**
814 and
815 (here refer to existing legislation)
all other acts or parts of acts in conflict herewith are hereby re-

816 pealed: Provided, however, that nothing in this Act contained shall
817 invalidate or affect any action taken under any law in effect prior
818 to the effective date hereof, nor shall invalidate or affect any pro-
819 ceeding instituted under such law before the effective date hereof.

820 SECTION 24. EFFECTIVE DATE. This Act shall take ef-
821 fect on

822 **Comment**

823 Care should be exercised in selecting this date so as to allow ample
824 time between the enactment of the law and its effective date to permit
825 preparation and issuance of regulations.

Addenda

826 *Sections Relating to Corporations to Be Inserted if Necessary to*
827 *Provide for Corporations in the Practice of Public Accounting at*
828 *the Time of Enacting New Legislation.*

829 SECTION 8(a). CORPORATIONS PRACTICING PUBLIC
830 ACCOUNTING—REGISTRATION THEREOF. A corporation
831 which, on the effective date of this Act, had a place of business in
832 this State, was permitted to engage in the practice of public ac-
833 counting in this State, was actually so engaged and which at that
834 time had fully complied with all laws of this State relating to it,
835 may register with the Board as a corporation engaged in the prac-
836 tice of public accounting on or before the day of,
837 19..... Application for such registration must be made upon the
838 affidavit of an officer of such corporation. The Board shall in each
839 case determine whether the applicant is eligible for registration. A
840 corporation which is so registered and which holds a permit issued
841 under Section 10 of this Act may practice public accounting and,
842 in that connection, may use a corporate name which indicates, as a
843 part of such name, that it is engaged in such practice provided it
844 had such corporate name on the effective date of this Act.

845 SECTION 9. REGISTRATION OF OFFICES. Immediately
846 preceding the words "shall be registered" in line 6, insert "or cor-
847 poration."

848 SECTION 10. ANNUAL PERMITS TO PRACTICE. At the
849 end of the first sentence, insert "and the corporations registered
850 under Section 8(a) of this Act."

851 SECTION 12(a). REVOCATION OR SUSPENSION OF
852 REGISTRATION, OR PERMIT, OF THE CORPORATION.
853 After notice and hearing as provided in Section 13 of this Act,
854 the Board may revoke or suspend any registration granted to a
855 corporation under Section 8(a) of this Act or may revoke, sus-
856 pend or refuse to renew any permit issued to a corporation
857 under Section 10 of this Act or may censure the holder of any
858 such permit, if the corporation, or any of its officers, em-
859 ployees, or agents, while acting for or in behalf of such corporation,
860 is guilty of any act, neglect or failure to act which would have been
861 cause for such act as against an individual under Section 11 of
862 this Act.

863 SECTION 15(f). Add at the end thereof the following: "provid-
864 ed, however, that a corporation which is registered under Section
865 8(a) of this Act, holds a live permit issued under Section 10 of this
866 Act, and all of such corporation's offices in this State for the practice
867 of public accounting are maintained and registered as required un-
868 der Section 9, may use the words 'public accountant,' 'accountant,'
869 'auditor' and other appropriate words to indicate that it is engaged
870 in the practice of public accounting but may not use the title or des-
871 ignation 'certified public accountant,' 'certified accountant,' 'char-
872 tered accountant,' 'enrolled accountant,' 'licensed accountant,' 'regis-
873 tered accountant' or any other title or designation likely to be con-
874 fused with 'certified public accountant' or any of the abbreviations
875 'CPA,' 'CA,' 'EA,' 'LA,' 'RA' or similar abbreviations likely to be
876 confused with 'CPA.' "

877 SECTION 15(i). Insert at the end of 15(i) "provided, that
878 a corporation which is registered under Section 8(a) of this Act

879 and holds a live permit issued under Section 10 of this Act may
880 affix its corporate name which it had on the effective date of this
881 Act with the wording indicated above.

882 SECTION 15(j). Change the first two lines to read: "No
883 person, partnership or corporation, not holding a live permit issued
884 under Section 10 of this Act shall hold."